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Chambers of Vincent L. Briccetti

OTT 4/8/21

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
 COREY A. LATIMER, SR., :  
     Plaintiff, :  
     :  
 v. :  
     :  
 JOHN DOE SUPERINTENDENT, DET. SGT. :  
 ROSSI, and SGT. MUZELLY, :  
     Defendants. :  
 -----x

ORDER

21 CV 1275 (VB)

On April 7, 2021, plaintiff, who is proceeding pro se and in forma pauperis, filed a motion for summary judgment. (Doc. #12).

The Court first issued an Order of Service on March 23, 2021. Defendants have not yet answered the complaint, nor is there any indication that defendants have been served in this action.

Furthermore, Rule 56 of the Federal Rules of Civil Procedure permits the Court to grant summary judgment only when there exists “no genuine dispute as to any material fact and [when the moving party] is entitled to judgment as a matter of law.” Fed. R. Civ. 56(a). The complaint alone does not suggest plaintiff is entitled to judgment as a matter of law.

Accordingly, plaintiff’s motion is premature and is DENIED WITHOUT PREJUDICE to refile at an appropriate time. The clerk is instructed to terminate the motion. (Doc. #12)

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. See Coppedge v. United States, 369 U.S. 438, 444–45 (1962).

Chambers will send a copy of this Order to defendant by mail to the address on the docket.

Dated: April 8, 2021  
 White Plains, NY

SO ORDERED:

Vincent L. Briccetti  
 United States District Judge